

Request for Examiner Interview

The Examiner is requested to contact the undersigned to arrange a personal interview at a mutually convenient time.

Remarks

In view of the foregoing amendments and the following remarks, reconsideration and allowance of this application are requested.

Claims 11, 12, 14-20 and 81-140 are now pending with claims 11, 81, 108, 118, 119, 130, 136, 137 and 140 being independent. Claims 13 and 21-80 have been cancelled, claims 12-20 have been amended and claims 81-140 are newly presented for consideration. New claims 81-140 find support at least in the same locations as the original claims and elsewhere in the specification, claims and figures, for example, at page 8, line 26 – page 9, line 20; page 21, lines 20-22; page 24, lines 16-22; and page 33, lines 2-20.

The title and abstract have been revised. No new matter has been added.

Claim 39 was objected-to and claims 12, 30 and 34 were rejected under 35 USC 112, second paragraph, for the reasons set forth at page 2 of the office action. Without conceding the propriety of the Examiner's position, claims 30, 34 and 39 have been canceled, and claim 12 has been amended, thereby obviating these rejections and objection. Claim 12 has been amended to change the questioned language "blocking acceptance [of the binding offer]" to --rejecting another acceptance of the binding offer--. Clear support for this language can be found in the specification at least page 21, lines 20-22. Accordingly, the claims as presented are in full compliance with 35 USC 112.

For the reasons set forth at pages 3-9 of the office action, the previously pending claims were rejected under 35 USC 103 as allegedly being unpatentable over various combinations of Nahan (USP 5,664,111), publications entitled "Save the Earth Foundation: Internet Online Rock and Roll Art Auction" ("Save the Earth") and "Computer Museum Holds An Internet Auction" ("Computer Museum"), and assertions of official notice. These rejections and assertions, and

their underlying rationale, are traversed in their entirety. Accordingly, pending claims 11, 12, 14-20 and 81-140 are allowable at least for the following reasons.

Independent Claim 11, which has not been amended from its original form, recites a method of using a computer to facilitate a transaction between a seller and at least one buyer. The method comprises receiving at the computer a binding offer to sell an item which includes a binding offer price, outputting the binding offer to sell to a plurality of potential buyers, and receiving acceptance of the binding offer to sell the item from at least one buyer. The buyer tenders acceptance by providing payment information. The art of record fails to teach or suggest the combination of features recited in claim 11.

The Examiner's primary citation, Nahan, relates to a multimedia presentational and marketing system in which an art dealer ("the buying dealer") can show his clients works (e.g., pieces of art work) from the inventory of another art dealer ("the listing dealer"). As disclosed in Nahan in Fig. 24 and at column 13, line 47 – column 14, line 49, if one of the buying dealer's clients desires to purchase a work from the listing dealer's inventory, then the buying dealer can use Nahan's system to "place a buy order on behalf of [the] client." Col. 13, lines 47-48. Nahan's system then generates an order confirmation and assigns a transaction number. The listing dealer is then requested to "*confirm that the work is still available.*" Col. 13, lines 48-51 (emphasis added). Nahan's system further "*requests that the buying dealer wire transfer funds to pay for the purchased work.*" Col. 13, lines 62-64 (emphasis added). As further disclosed in Nahan at col. 14, lines 6-22 (emphasis added)....

If [Nahan's] system does not receive notification that the ***buying dealer has wire transferred the necessary funds*** within a predetermined period of time 530, the system issues an electronic order acceptance tracking notice to the buying dealer 532, 534. If after another predetermined period of time, the system still has not received notification that the buying dealer has wire transferred the funds 536, the system ***cancels the order*** 538 issues an order cancellation notice to the buying dealer and the listing dealer 540.

If the **listing dealer rejects the order** of the buying dealer 542 or does not respond to a confirmation of availability request 544-548, the system **cancels the transaction** 550. When the listing dealer formally rejects the order 552-554, an **order rejection** confirmation 556 is electronically conveyed to the listing dealer. At the same time, the system sends an electronic notice to the buying dealer informing him that the **requested work is not available** 558.

Accordingly, as clearly indicated by the above-cited passages, Nahan's system does not disclose or suggest several features of claim 11 including outputting a binding offer to sell an item, including a binding offer price, and receiving acceptance of the binding offer to sell the item from at least one buyer, wherein the buyer tenders acceptance by providing payment information. To the contrary, the above passages from Nahan demonstrate that listings in Nahan's system are not binding offers to sell but rather mere invitations to deal. Moreover, a "buy order" in Nahan is merely a non-binding offer to purchase a work and not an acceptance of a binding offer to sell as recited in claim 11. Last but not least, Nahan fails to disclose or suggest a buyer's accepting a binding offer for sale by tendering payment information as recited in claim 11. To the contrary, Nahan explicitly discloses that facilitating payment from buying dealer to selling dealer is not handled by Nahan's system but rather left to the individual buyer and seller. Consequently, Nahan has no reason to collect payment information from the buying dealer, and for that reason, specifically teaches away from receiving payment information from the buyer, as recited in claim 11.

The remaining citations fail to cure the deficiencies of Nahan. Save the Earth relates to an Internet-based auction in which "Internet users will be able to view full color images of the posters to be auctioned online, check current bids and their own bids online." Computer Museum relates to an e-mail based auction system in which auction participants send e-mail messages to register, bid quote or get a history on the bidding of items. Accordingly, each of Save the Earth and Computer Museum fails to disclose or suggest outputting a binding offer to

sell an item, including a binding offer price, and receiving acceptance of the binding offer to sell the item from at least one buyer, wherein the buyer tenders acceptance by providing payment information, as recited by claim 11.

The above-noted differences from the art of record result in the method of claim 11 providing several advantages over prior art systems. For example, as discussed in the specification at least at page 33, lines 2-20, the method of claim 11 facilitates an electronic commerce exchange in which transactions between buyers and sellers are consummated with legal finality of transaction and in an environment that fosters confidence in the integrity and trustworthiness of the exchange. Accordingly, the method of claim 11 represents a dramatic improvement over systems such as disclosed in Nahan, Save the Earth, and Computer Museum, which provide no such finality of transaction, and, consequently, little if any trust or confidence by the participants to the transaction.

Independent claims 81 and 137 recite respectively a method for using a computer system, and a system, to facilitate a transaction between a seller and at least one buyer. The method performed by the computer system in claim 81 comprises presenting to a plurality of potential buyers a binding offer to sell an item. The presented binding offer to sell includes at least a binding offer price. The method further comprises receiving from at least one buyer a binding acceptance of the binding offer. The received binding acceptance includes payment information sufficient to authorize payment of the offer price to a third-party. Accordingly, independent claims 81 and 137 are allowable over the art of record at least for the same reasons that claim 11 is allowable, as discussed above.

Independent claim 108 recites a method for using a computer system to facilitate a transaction between a seller and at least one buyer. Claim 108 is allowable at least for the reasons discussed above with regard to claim 11, and further for its recitation of making payment to the seller while maintaining the buyer's payment information in confidence from the seller. The art of record fails to disclose or suggest this additional feature.

Independent claim 118 recites a method for using a computer system to facilitate a transaction between a seller and at least one buyer. Claim 118 is allowable at least for the reasons discussed above with regard to claim 11, and further for its recitation of allowing the buyer to post the item for re-sale or auction without taking delivery of the item. The art of record fails to disclose or suggest this additional feature.

Independent claims 119 and 140 recite respectively a method for using a computer system, and a system, to facilitate a transaction between a seller and at least one buyer. The method performed by the computer system of claim 119 comprises presenting to a plurality of potential buyers a binding offer to sell an item, the presented binding offer to sell including at least a binding offer price; and receiving from at least one buyer a binding counteroffer for the item, the binding counteroffer including at least a binding counteroffer price for the item, the received binding counteroffer including payment information sufficient to authorize payment of the counteroffer price. Claims 119 and 140 are allowable at least because the art of record fails to disclose or suggest receiving a binding counteroffer from a buyer.

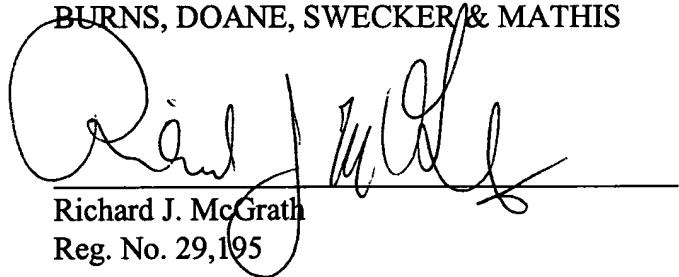
Independent claims 130 and 136 recite respectively a method for using a computer system, and a system, to facilitate offering items for sale in an electronic commerce exchange. The method performed by the computer system in claim 130 comprises receiving from a seller an identifier associated with an item that the seller is offering for sale; accessing a database using the received identifier to retrieve a data record descriptive of the item; and presenting to a plurality of potential buyers a description of the item for sale based on the retrieved data record. The art of record fails to disclose or suggest the combination of features recited in claims 130 and 136.

The remaining claims depend directly or indirectly from one of the independent claims discussed above. Accordingly, the dependent claims are allowable for the reasons that their respective independent claims are allowable and for reciting allowable subject matter in their own right. Independent consideration and allowance of the dependent claims are requested.

In view of the foregoing amendments and remarks, this application is in condition for allowance, and a notice thereof is requested.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS

A handwritten signature in dark ink, appearing to read "Richard J. McGrath", is written over a horizontal line. The signature is fluid and cursive.

Richard J. McGrath
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Date: January 5, 2000

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